

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - OCTOBER 17, 2001**

CALL TO ORDER

Mayor Pro Tempore/Agency Member Sellers called the special meeting to order at 6:30 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate
Late: Mayor/Chairman Kennedy (arrived at 7:25 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

6:30 P.M.

CLOSED SESSION:

City Attorney/Agency Counsel Leichter announced the following closed session items:

1.

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)
City Negotiators:	Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel
Case Name:	San Jose Christian College v. City of Morgan Hill
Case Numbers:	Santa Clara County Superior, No. CV 799179; USDC Northern California No. C01-20857 RMW
Closed Session Topic:	Potential Existing Litigation/Real Estate Negotiations

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority:	Government Code Section 54965.9(a)
Case Name:	Morgan Hill Unified School District v. Minter & Fahy
Case No.:	Santa Clara County Superior Court, No. CV 772368
Attendees:	City Council, City Manager, City Attorney

3.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Initiation of Litigation	
Authority:	Government Code Section 54956.9(b) & (c)
Number of Potential Cases:	5

4.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Legal Authority:	Government Code 54956.8
Real Property Involved:	17.58 acre parcels located on the eastside of Condit Road, bound by Condit Road, Tennant Avenue, Barrett Avenue and Murphy Avenue (APN 817-13-017)
Negotiating Parties:	
For City/Agency:	City Manager/Executive Director; City Attorney/Agency Counsel; Director of Business Assistance & Housing Services
For Property Owners:	Virginia Lomanto Trustee
Closed Session Topic:	Acquisition of Real Property

OPPORTUNITY FOR PUBLIC COMMENT

Mayor Pro Tempore/Agency Member Sellers opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor Pro Tempore/Agency Member Sellers adjourned the meeting to closed session at 6:35 p.m.

RECONVENE

Mayor Pro Tempore/Agency Member Sellers reconvened the meeting at 7:03 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that the closed session items were deferred to the conclusion of the agenda.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor Pro Tempore Sellers, Santa Clara Valley Water District Board Member Rosemary Kamae led the Pledge of Allegiance

INTRODUCTIONS

Director of Community Development Bischoff introduced Kathy Schuler, Building Division Municipal Services Assistant; Director of Business Assistance and Housing Services Toy introduced Sheryll Bejarano, Office Assistant II; Council Services and Records Manager Torrez introduced Moira Malone, Office Assistant II; and Chief of Police Schwab introduced Raul Mancera, Police Cadet. These employees are recent hires to the City of Morgan Hill.

PRESENTATION

Eagle Scout Joe Heath presented the City Council with a Morgan Hill Historical Downtown Walking

Tour brochure.

Donna Foster stated that the brochure would be made available throughout the community.

Carey Sullivan made a presentation relating to *Domestic Violence and Community Involvement*. He indicated that a candlelight vigil was held in the downtown last Tuesday with approximately 50 participants in attendance. The activities taking place in Morgan Hill and elsewhere in the county are being conducted to remember victims of domestic violence and to recognize the impact that domestic violence has on every member in the community and society, as a whole. As a police officer and member of the South County Domestic Council, he felt that individuals tend to believe that the police department and individuals in uniforms are the first line of defense for domestic violence. He said that this is not necessarily true and felt that there were many other opportunities for others to get involved to prevent domestic violence long before it reaches the level where police officers have to get involved and become interveners on the issue. The message being sent in this year's campaign is to encourage everyone in the community to become aware and recognize events when they occur, reaching out to those who are impacted by domestic violence. He encouraged everyone to become involved and do what one can to prevent domestic violence.

PROCLAMATION

Amy McGeever, Britton Middle School student, indicated that she read a book that addressed suicide prevention programs. She stated that a lot of her friends are depressed about different things. Therefore, she felt that this issue should be pursued and acknowledged.

Mayor Pro Tempore/Agency Member Sellers presented a proclamation to Amy McGeever, recognizing Suicide Awareness and Prevention Week.

CITY COUNCIL REPORT

Council Member Carr reported on the following activities: 1) Housing Element Update - The City is going through a process of updating the Housing Element. Once adopted by the City Council, it will become part of the City's General Plan and be approved by the State of California. He indicated that a nine-member Committee met last week and will continue to meet in order to complete the update and have it approved by the state within the statutory time limit. 2) South County Wastewater Authority (SCRWA) - A current project for this body is the contract with Calpine for peaker energy plants to be installed. He indicated that the City of Gilroy has permitted the peaker plants and that the SCRWA Board is working with the City of Gilroy and Calpine to use recycled wastewater from the treatment facility to cool the Calpine plant. This project could become a cost savings for the City of Morgan Hill as the City will not need to find another way to rid recycled water and possibly reduce energy expenses to this facility. 3) Youth Health and Safety Committee - He is working with Council Member Tate on this initiative. He participated in a roundtable discussion, attended by approximately 20 youths, at the El Toro Youth Center regarding the positives and negatives of Morgan Hill. The City is working in conjunction with the Cornerstone Project in dealing with development assets for youth. This is to be an ongoing dialogue and that the comments would be compiled, to be brought back to the City Council under a formal presentation.

CITY MANAGER'S REPORT

City Manager Tewes addressed the reason for relocation of the church located at Dunne and Monterey. He stated that the church was moved 20 feet to make room for the community center project. He indicated that a groundbreaking ceremony will be held Saturday, October 20 from 11 a.m. to 3 p.m. and invited the community to attend the celebration of this long awaited milestone.

CITY ATTORNEY'S REPORT

City Attorney Leichter reported that the Monthly Litigation Summary was distributed this evening, noting that there is an increase by one case because staff did not double notice the San Jose Christian College matter. Although the City has 11 cases pending, she noted that three cases have either been dismissed or settled and that the City is awaiting the final settlement documents.

PUBLIC COMMENT

Mayor Pro Tempore/Agency Member Sellers opened the floor to comments for items not appearing on this evening's agenda.

Larry Larsen, 17331 Holiday Drive, informed the City Council that he came home a couple of weeks ago to find a sign in his front yard indicating that a raw sewage spill occurred relating to lift station C, a problem that has been ongoing for 20 years. He previously raised this concern with prior Council Members without getting anywhere. As a result, he was forced to go to the Water Quality Control Board in order to fine the City \$10,000 for each occurrence. He also sought legal counsel but explained that the case never went to trial because his attorney was disbarred. However, at the time, he was content with the upgrades installed by the City. He requested City Council assistance. If assistance cannot be offered, he indicated that he would be forced to follow the previous route to approach the Water Quality Control Board and seek the services of an attorney to pursue the matter.

City Manager Tewes offered to meet with Mr. Larsen to try and resolve the issue.

CONSENT CALENDAR:

City Council Action

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Approved** Consent Items 1 through 9 as follows:*

1. **SEPTEMBER 2001 FINANCE AND INVESTMENT REPORT**

Actions: **Accepted and Filed** Report.

2. **PURCHASE OF RECYCLING CONTAINERS**

Action: **Appropriated** \$20,000 from the Fund Balance of Fund 232 for the Purchase of Additional Recycling Containers.

3. **RECYCLING REWARDS CALENDAR**
Actions: 1) **Accepted** Printing Bid for the Annual Recycling Rewards Calendar, and 2) **Authorized** the City Manager to Issue a Purchase Order in the Amount of \$33,749 to Chase Printing.
4. **APPROVE SAN JOSE BLUE AS SOLE SOURCE VENDOR FOR DIGITAL VAULT SERVICES FOR THE COMMUNITY CENTER PROJECT BID DOCUMENTS**
Action: **Approved** San Jose Blue as the Sole Source Vendor Providing "Digital Vault" Scanning and Printing Services for the Bid Documents on the Community Center Project.
5. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH TONY & DOLORES GIANCOLA**
Actions: 1) **Approved** the Subdivision Improvement Agreement, and 2) **Authorized** the City Manager to Sign the Agreement on Behalf of the City with Tony & Dolores Giancola.
6. **EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES**
Action: **Authorized** the City Manager to Execute a Consultant Services Agreement for Contract Planning Services at a Cost Not to Exceed \$16,250.
7. **APPOINTMENT OF A TWO-MEMBER COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS FOR THE DOWNTOWN DESIGN PLAN UPDATE TASK FORCE**
Action: **Approved** the Mayor's Appointment of Mayor Pro Tempore Sellers and Council Member Tate to Serve on the Subcommittee to Interview Applicants for the Downtown Design Plan Update Task Force.
8. **CONTRACT FOR MANAGEMENT SERVICES FOR COMMUNITY CENTER AND PLAYHOUSE**
Action: **Authorized** the City Manager to Execute a Consultant Services Agreement for Contract Consultant Services at a Cost Not to Exceed \$36,638.
9. **SPECIAL CITY COUNCIL MEETING MINUTES OF SEPTEMBER 24, 2001**
Action: **Approved** Minutes as written.

City Council and Redevelopment Agency Action

- Action:** On a motion by Council/Agency Member Tate and seconded by Council/Vice-chairman Carr, the City Council/Agency Commission, on a 4-0 vote with Mayor/Chairman Kennedy absent, **approved** Consent Calendar items 10 and 11 as follows:
10. **JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF SEPTEMBER 26, 2001**
Action: **Approved** Minutes as written.

11. **JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF OCTOBER 3, 2001**
Action: Approved Minutes as written.

City Council Action

OTHER BUSINESS:

12. **STATUS REPORT FROM SANTA CLARA VALLEY WATER DISTRICT ON RESOLVING SAN PEDRO PERCOLATION POND HIGH GROUNDWATER PROBLEM**

Santa Clara Valley Water District (SCVWD) Board Member Rosemary Kamae indicated that Board Member Sig Sanchez was also present this evening. She said that SCVWD has a process in place to work toward joint recreational uses with regards to facilities. She addressed the operational strategy that the Water District has had to deal with relating to localized high ground water, specifically in the vicinity of the San Pedro ponds. She informed the City Council that Keith Whitman, Deputy Operating Officer for a local water supply management, was present to discuss these two issues and how the Water District can move forward with recreational uses and address the high groundwater issue at San Pedro ponds.

Mr. Whitman presented a brief status report and stated that Water District staff has been working with Morgan Hill staff and council members to discuss the possibility of recreational development. During the course of discussion, questions were raised relating to high groundwater conditions. He outlined the next steps necessary to move forward and implement joint uses and recreational development at the San Pedro site. He indicated that there have been discussions of three particular alternatives with a desire to move forward with one of the three alternatives that would be simple, low cost and easy to implement such as a passive recreational use. The next steps necessary to move forward with this proposal is to select one of three alternatives that the City would like to implement, entering into discussion, entering into a joint use agreement, and identify what will be required in terms of the California Environmental Quality Act, if any. These are the steps remaining in terms of implementing recreational development. He did not see a reason why this cannot move forward immediately. He indicated that high ground water is an issue that the Water District has studied in detail.

Council Member Chang stated that the City is buying land to build an aquatic center not far from the San Pedro ponds. She inquired how deep will the water level be in this area?

Mr. Whitman said that it is the Water District's goal to monitor the wells to the south of the ponds and to try and maintain water levels of 13-15 feet below the ground surface. He said that it is still possible that the natural conditions will continue to exist and that the wet season will worsen things. However, in terms of the operation of the pond, the Water District believes that it can be operated in a way that will improve the situation.

Mayor/Chairman Kennedy entered and took his seat on the dais.

Council Member Chang said that safety of any water source is an issue. If the San Pedro ponds are opened for public use, she inquired whether it would be possible for someone to access the ponds and dump things into them, creating a safety hazard?

Mr. Whitman responded that this would be a possibility and that there is a certain amount of risk with this problem. He said that the Water District Board has a policy in place that would aggressively protect the groundwater basin from contamination and from the threat of contamination. He said that there are hundreds of acres of groundwater recharge ponds throughout the county, many of these facilities the Water District has entered into joint use agreements with Cities. The District has in place a groundwater quality monitoring program. If something were to happen, he said that both surface and groundwater quality monitoring have been designed to identify these problems and develop responses. He said that of greater concern is the protection of the groundwater basin as it provides natural barriers or protection to contamination. A greater threat is the issue of underground tanks leaking. The Water District monitors the entire groundwater basin and evaluates the water quality to make sure that there is no contamination.

Board Member Kamae stated that safety is one of the priority issues that the Water District has been looking at, in terms of protecting ground and surface water. The Water District has been looking at areas of vulnerability and how they can be addressed. She indicated that the Water District worked closely with the Santa Clara County Sheriff's Department and Emergency Operations Officers throughout the county. She indicated that the Water District would be willing to work closely with the City in terms of hazardous materials or any other potential hazards, including having an action plan in place, should something happen. The Water District would like to provide opportunities for recreation but that with this comes some element of risk.

Council Member Chang noted that program does not address the recharge facility. She stated that if she could be assured that the program in place for the recharge and recreational use does not constitute a safety problem, she would be supportive of the use.

Mr. Whitman stated that there are safety issues that would be addressed and clarified through a joint use agreement in terms of how the site would be developed, and how it would be policed/monitored. He indicated that cities and the Water District have programs in place that deal with hazardous materials response, storm water, illegal dumping, etc. He said that these programs have existed for many years and are designed to respond to potential incidents. He indicated that the five alternative solutions would not impede the use of the ponds for recreational purposes. He said that the only connecting issue that exists would be the development of a very active recreational use. If a passive recreation use is proposed, such as trails or paths around the perimeter of the site/ponds, there would not be a reason to preclude passive recreational uses.

Council Member Carr noted that it was stated by Water District staff that it is ready to move forward with recreational uses and that there is no reason it cannot move forward at this time. He asked if a timeline has been put together for recreational development, working with City staff?

Mr. Whitman stated that the city would need to finalize a plan for recreational development and that the Water District would be happy to work with the City. Once it is understood what the site development plan is, there can be discussion on development, followed by a joint use agreement. He

said that the Water District is looking for direction from the City as to the recreational use it will be proposing.

Council Member Tate indicated that he has been involved in discussions regarding recreational uses and that Wayne O'Connell has prepared suggested plans, noting that there are questions that need to be resolved. He indicated that Mr. O'Connell will be involved with the CEQA work as well.

Mr. Whitman said that based on pilot studies and past testings by the Water District, it is expected that water levels can be brought down to a range of 13 to 15 feet. He indicated that the Water District would like to refine a few details regarding operational procedures and monitoring within a month. In terms of how the ground levels will respond, it will depend on rain fall patterns. He said that the Water District will make sure that pond operation is not what is creating the problem.

Council Member Chang asked how it can be proven that the Water District's operation is not causing the problem but that the problem is being caused by natural weather, causing the water level to be at six feet?

Mr. Whitman indicated that Water District would be willing to share whatever data is collected to the City relating to ground water monitoring.

Board Member Sig Sanchez indicated that the operation of the ponds will depend on the type of recreational activities that the City is seeking. He suggested that the task be assigned to both staff members and allow them to move forward in order to get this done sooner.

Mayor Kennedy opened the floor to public comment.

Dr. Hatakeyama stated that several citizens have been working on this problem for several years. He said that there is a broad-based coalition of neighbors, individuals from the School District, Parks and Recreation Commission, Council Member Tate and he who have informally met on this issue for approximately one year. He said that a lot of progress has been made and that he was pleased to see that it has come to this point where there may be a possible working relationship with the Water District. As there is not a tie to the groundwater situation and public use, he felt that it would be a win-win situation.

No further comments were offered.

Action: *By consensus, the City Council **Received** the Update Provided by Santa Clara Valley Water District Regarding the Requested Time Frame.*

13. MORGAN HILL AQUATIC CENTER

City Manager Tewes presented the staff report.

Mayor Kennedy indicated that he requested that this item be placed on the agenda, noting that it came out of discussions on how the Morgan Hill Center would be operated and bringing it to a world class level comparable to the Santa Clara Swim Center. He stated that there is not enough money in the

City's budget to fund this level of facility. He said that it is proposed to build the first two pools (50 meter Olympic sized pool and a recreational pool) that would provide operational revenue to be used by families to help fund the 50-meter Olympic size pool. In order to bring it to a comparable level to that of the Santa Clara Swim Center, a deep water, synchronized swimming and water polo pool would be needed and a possible fourth pool that would be a toddler/zero entry pool with additional water features. Some of the discussions undertaken with members of the aquatic community, working with San Jose Aquatic/Silicon Aquatic, is the operation of the facility. He felt that it would be better if the facility was to be operated by a second or third party organization versus the City because it would take a projected annual budget in excess of \$500,000 per year in operational costs. To take the aquatics center to the next level, significant amount of fundraising efforts will be required to provide the facility and build the additional pools that are needed. He said that an aquatic center 501(3)(c) was brought forward, thus the purpose for the request. He recommended that Council Member Carr be added as an ex-officio member to the organizing board. He further recommended that the City provide seed money to get this group going with the goal that it fall under the umbrella of the Morgan Hill Community Foundation so as not to work at cross purposes.

Mayor Kennedy opened the floor to public comment.

Martin Kaptetic distributed and read into the record the mission statement for Morgan Hill Aquatic Center Incorporated. She indicated that the Morgan Hill Aquatic Center Incorporated will provide unparalleled recreational opportunities for the entire community and the region without requiring ongoing financial support.

John Rick, president of the Morgan Hill Swim Club, introduced the organizing board as follows: Gino Acevedo, local businessman and accomplished water polo player/swimmer/active member of the community; and Bill Thompson, president and chief executive officer of the Silicon Valley Aquatic Association. He requested Council approval of the seed money that would allow the organization to get incorporated and apply for a 501(c)3 exemption status.

Geno Acevedo informed the City Council that Bill Weber, Parks and Recreation Commissioner, is also a Member to the organizing board.

Roger Knopf, one of six organizing members to the board of the Morgan Hill Community Foundation, informed the City Council that this Foundation is now incorporated. He requested clarification about bringing this new operating entity that might have a non profit status under the umbrella or working in conjunction with the Community Foundation. He stated his support of the aquatic center and what the City Council has done to advance this by the acquisition of land and appropriation of funds for development. However, before you start talking about partnering with the Morgan Hill Community Foundation on a local, regional and national level, he felt that some ground work will be necessary to see how this would work. He said that the Morgan Hill Community Foundation is in existence and that it is being stated that the aquatic organizing board is planning to make an application to the state for incorporation. He wanted to know how this will work so that the community is not confused. It is hoped that the Community Foundation will be an overall broad-based organization that will be supported by the entire community for its worthwhile endeavors, the first of which may be the aquatic center. He knows that the community has funding from a private source of several hundred thousand dollars that will be coming through the Community Foundation, committed to the aquatic center.

Before confusing the community about what is being done in the way of a community foundation, he wants to be specific and clear about what message is being put out and that the Community Foundation is not confused with the aquatic center as it would be unfair to both entities. He reiterated his support of the aquatic center but did not want to confuse the issue. Also, the Community Foundation will accept both restricted and unrestricted funds.

Mayor Kennedy stated that one of the issues that has been raised is the control of funds from Venture Corporation. He felt that it would require an action on the part of the Community Foundation for the use of these funds.

Mr. Knopf stated that the funds would go through the Community Foundation but would be earmarked as restricted funds specifically for the aquatic center. It would be the responsibility of the Community Foundation board to make sure that earmarked funds are disbursed for specific uses.

John Varela indicated that he is one of the founding members of the Community Foundation as well as the chairman for the Morgan Hill Youth Sports Alliance. He indicated that the Morgan Hill Youth Sports Alliance received an endowment that was to be used specifically for girls softball. These funds cannot be touched unless the board makes a written request from the holder of the endowment. He clarified that the board is the agent that passes the funds through and that they do not have access to the money. He envisioned that the aquatic's monies would have the same restrictions that would require action by the board for monies allocated for specific purposes. He stated that this could be set up through the Community Foundation board of directors. He encouraged that this procedure be adopted for any organizations working with the Community Foundation.

John Rick stated that the decision on disbursement of funds is not as important as the decision of the foundation to accept the funds. If a foundation accepts the funds, subject to restrictions, they have already met their requirement, therefore, board approval is not required to disburse funds.

Council Member Tate stated that he did not understand the requested action. He said that when he approved the establishment of the Morgan Hill Community Foundation it was his belief that he was also supporting the aquatic center. He supported the aquatic center and felt that the umbrella of the Community Foundation could support this effort through restricted funds. He noted that the \$10,000 being requested to set up a 501c3 has already been done through the Community Foundation. He recommended that the Community Foundation's 501c3 also work for this. If the aquatics' group can find another way to leverage the \$10,000 into the \$500,000 needed, the City Council should support the request for leveraging funds. He stated that he could not support the establishment of a separate foundation as different foundations may be created and would be competing for community support, resulting in public confusion. He stated that he would like to find a way to support what is trying to be accomplished under the umbrella of the existing Community Foundation.

Mayor Kennedy stated that it was his belief that the aquatics' group would be responsible for both the operation and maintenance of the aquatic center, including fundraising for expansion. He felt that this would be a large operation and that the day to day details of operating and managing the aquatic center would require too much going back and forth with the Morgan Hill Community Foundation. He noted that it has not been decided who would be operating the aquatic center. However, in his discussions with the City Manager and staff, it seems that it would be a significant undertaking for

the City to be the primary operator of the aquatic center.

Council Member Chang said that granting the \$10,000 to start the organization does not mean that the City would be giving the aquatic group the responsibility of operating the aquatic center.

Council Member Carr recommended that one of the four members of the aquatic's organizing board be asked to serve on the Morgan Hill Community Foundation board to help facilitate the relationship and to answer questions raised this evening. He would agree to reserve the \$10,000 with the stipulation that the relationship is resolved. He said that he did not want to see a multitude of foundations competing for funds and ruin the efforts of each one.

Mayor Pro Tempore Sellers indicated that he is serving as the interim chair of the Morgan Hill Community Foundation whose primary goal is to set up the Foundation as quickly as possible. He felt that this has to be one community with many facets. He indicated that the Community Foundation will be meeting tomorrow evening and that the Board has asked members of the aquatic group to meet with them. He stated that the Foundation is more than willing to use some of the \$10,000 funding originally allocated to the Community Foundation to do everything that it can to make sure that the aquatics group gets underway as quickly as possible. He said that a bank account has been established and has the ability to receive funds, on an interim basis, to accept funds. The foundation has envisioned a separate entity that decides how the restricted funds are to be used. The aquatic center group would be the entity that would make the decisions and work with the Community Foundation to make sure that funds are allocated in the manner prescribed. He felt that this will be an evolving entity and that its initial charge will be centered on fundraising and gathering as much money as quickly as possible. He invited the aquatics' group to meet with the Community Foundation Board and discuss how funding can be provided to get them underway as quickly as possible under the umbrella of the Community Foundation and proceed in this direction as opposed to proceeding as separate groups.

Council Member Chang noted that the aquatics group is only asking for \$10,000 to assist them in the formation of a non profit organization for this entity. She noted that \$750,000 has been given to the City for the aquatics center. If the aquatics group wants to form a non profit organization with the current organizing board, they have every right to do so. She felt that the \$10,000 would be allocated for the aquatic center and that it would be up to this group to decide whether they want to join the Community Foundation or form their own foundation.

Council Member Tate stated that \$10,000 bothers him from a precedent stand point. He felt that it is not an automatic that an organization who wants to start gets funded by the City Council for \$10,000. He said that he would consider a request for funding if the group comes forward with a business proposal/proposition that states that they can leverage funds to accomplish certain things, one of which would not be to form a 501c3 as this has already been done by the Community Foundation.

City Manager Tewes indicated that pursuant to a long term development agreement with Morgan Hill Ranch, the developers agreed to pay the City \$750,000 over a three-year period. The City agreed to use these funds solely for the construction of an aquatic facility or the operation of the facility. The first installment of those payments under this contract has been made to the City treasury and are

unallocated at this point. He indicated that it would be possible for the City Council to enter into an agreement with some other entity to meet the terms of these payments. The entity can be a private party as long as the City met the terms of the development agreement under which the contractual payments have been made. He clarified that the City Council will decide how these funds will be used. The City Council can make this decision by entering into agreements with others or oversee these funds as a City.

Council Member Carr stated his support of appropriating funding to help get things moving with the aquatic center but that he would like to wait on allocating funding until the outcome of this combined meeting.

Action: *Council Member Carr made a motion, seconded by Council Member Tate, **to table** this item.*

Mayor Kennedy stated his support of the motion. He felt that it was important that the community work together and not create a division in the community, in particular between these two groups by doing something prematurely that may create the division. He did not want to see division nor confusion in the community, therefore, it was important for everyone to get together and find a way that will work for everyone.

Vote: *The motion carried unanimously (5-0).*

Council/Agency Member Chang requested that Agenda Items 14 and 15 be considered as one item as they are related issues.

Mayor Pro Tempore/Agency Member Sellers stated that he would like to defer discussion of agenda item 15 following closed session discussion.

Mayor Kennedy suggested that items 14 and 15 be discussed following closed session discussion and that the City Council/Agency Commission continue with the remainder of the agenda items, returning to items 14 and 15 following closed session discussion.

Action: *It was the consensus of the City Council **to consider** item 17 at this time, to be followed by item 16.*

Redevelopment Agency Action

OTHER BUSINESS

17) COMMUNITY PLAYHOUSE

Business Assistance and Housing Manager Maskell presented the staff report and identified proposed budget reductions.

Kurt Schindler, project architect, walked the Agency Commission through the mechanical systems,

changes to the landscaping, and addressed how the cuts impact the budget.

Agency Member Tate stated that in looking at the proposed landscaping changes, he noticed that benches and three trees are proposed to be eliminated. He did not believe that the elimination of these items was following the Agency Commission's direction. The benches are features that can be used by individuals as part of the landscaping. He could not see reducing the lighting as it would lower the quality of what is being proposed. He said that he could agree to eliminate the other items identified but that he could not support the elimination of the trees, lighting and benches as doing so would violate the spirit of what the Agency Commission stated of not reducing the landscaping from an exterior quality stand point.

Agency Member Sellers stated that the Agency Commission is hoping to fund some of the art features through a community foundation. The monument sign was another feature that could be funded by private sources. However, he noted that the City is racing against time and that he did not want to be in a position where development of the project is held up because the City is trying to raise funds for certain features. He noted that the Historical Society was able to raise money by engraving bricks in the center area of the museum. He recommended that the City institute a similar program.

Mr. Schindler noted that the pavers are located to the rear of the site. He said that there are opportunities in terms of fundraising by selling pavers in certain areas. He informed the Agency Commission that he reduced the quality of the pavers at the entry from stone to a cast element. He indicated that the benches are also potential fundraising elements.

Vice-chairman Carr inquired whether the project is being designed to be able to add items that are to be cut out that can be added back without significant changes to the structure itself?

Mr. Schindler stated that the mechanical system has to be decided upon. Regarding the landscaping, a decision would need to be made immediately regarding the service areas as well as the trees in the front plaza area. He noted that the entrance from Fifth Street is located off the lobby area where benches can be located. He indicated that the monument sign has not been designed but that it would be located somewhere in the front vicinity. He stated that monument sign can serve to identify the building and that it would need to be worked into the landscaping.

Vice-chairman Carr recommended that the Agency move forward this evening so that the schedule for this project is not changed, adding back a couple of the landscaping items that are important to the design element. The eliminated items could be added at a later time by the Agency or by some fundraising mechanism or combination of both.

Mr. Schindler requested that the Agency Commission make a decision on the number of trees that it would like to include, noting that the pavers and benches are items that have flexibility in terms of the Agency Commission's timing. He indicated that he would be completing project drawings in January 2002 and going to bid in February 2002, with construction underway by March or April 2002.

Agency Member Carr noted that the previous Agency Commission action moved the completion date for this project back two months and expressed concern with moving the project back any further.

Mr. Schindler identified the cost savings as follows: Reducing the amount of paving between the two buildings was a \$7,000 reduction; elimination of the benches results in a \$5,000 reduction; reducing the number of recessed lighting resulted in a \$5,000 savings; changing the entry pavers was a savings of \$3,600; and the elimination of three trees would result in a \$2,400 savings for a total savings of \$25,000.

Agency Member Chang recommended that these items be added back into the project as these are items that are important to the exterior design.

Agency Member Tate recommended that the benches be eliminated and that the Agency Commission find a way to have them donated.

Mr. Schindler indicated that the following features could be added to the project at a later date by fundraising efforts: benches; design project for pavers or concrete; design with brick or stone initially, selling each brick for \$100-\$200. This would reduce the cost for the project later on.

Chairman Kennedy opened the floor to public comment.

Peter Mandel, 3450 Oak Lane, indicated that he was representing the South Valley Civic Theater and that he was pleased with one of the directions given to staff to avoid any changes to the functional characteristics of the facility. He expressed concern with the cut back of the contingencies. Regarding the monument sign, he felt that signage is important to advertise what activities are to be taking place in the building. He said that there was an article in the Mercury News this past week about communities not planning for their future. Morgan Hill was called out as one of the communities that has done a good job of anticipating and planning for changes and for the construction of a community center. He applauded Morgan Hill for having foresight.

Ms. Maskell stated that it was important that the City Council remember that the project is only at 25% of the design process and that there are many unknowns to be discovered, especially when you are dealing with an old building. She indicated that staff would be returning to the Agency in January with the final design, cost for the project and a request to bid. It is anticipated that the project would be completed in late fall 2002 as a result of having to go back and evaluate the project. She indicated that the architect would proceed to design a building that when built, would achieve the goals to be set by the Agency. Regarding the request of the Agency to reduce the moving costs, she indicated that staff contacted the contractor who moved the building initially. He gave a price that would reduce the moving costs by \$20,000. It was her belief that there may be a way to use this mover again down the road.

Agency Member Sellers noted that it was stated that trees and entry pavers were reduced. He requested that staff and the architect go back to Plan A and reinstate landscaping and lighting, particularly the trees, hold off on the benches, eliminate paving on the Fifth Street/Jensen residence side, and supported staff's recommendation relating to the entry paving, understanding that the opportunity may arise to substitute materials.

Vice-chairman Carr encouraged staff and the consultants not to reduce the creativity in putting the project together even though the contingency has been reduced, particularly the interior of the facility.

Mr. Schindler expressed concern with the reduction in contingency from 10% to 5% as there are many unknowns.

Executive Director Tewes inquired whether it is the intent of the Agency Commission to appropriate an additional \$20,000 to the project to accommodate the addition of trees and lighting?

Agency Member Tate clarified that the inclusion would be \$5,000 for the recessed lighting and \$2,400 for the three trees, but did not include the tree grates as they were not visible.

Actions: *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Commission unanimously (5-0): 1) **Approved** the Final Schematic Design for the Community Playhouse with the following modifications: reinstate the trees and lighting per the original design; hold off on the installation of benches, making provisions for future installation; eliminating pavers adjacent to the Jensen's residence (maintain reduced paving between two buildings as well as going to asphalt surface area); and 2) **Appropriated** an Additional \$7,400 from the Redevelopment Agency's 317 Fund Balance for a Total Project Budget of \$2,307,400; and 3) **Directed** Staff to Proceed with the Design Development and Construction Drawings Phases of the Project.*

Executive Director Tewes informed the Agency Commission that staff would design the project as creatively as possible within the budget given. When the budget is bid in February 2002, it would be bid at approximately \$2.3 million. He indicated that this is just a prediction because it is not known what the project would cost until the bids are received.

16. RECESSIONS' EFFECTS ON THE CITY BUDGET

Finance Director Dilles presented the staff report.

City Manager Tewes indicated that the effects of the recession are being felt at the national, regional and local levels and are being felt differently by different organizations. He stated that some businesses, some households, and some governmental agencies are being hit harder than others. He stated that there were several factors that put the City in a good position. The City's revenue profile is generally balanced and is not as susceptible as others. He said that over the years, the City has built substantial reserves reflecting a prudent and conservative approach to managing the City's finances precisely for the moment when there is a potential economic down fall. He said that the City of Morgan Hill has in place a long range approach to its finances, noting that staff monitors where it is on an ongoing basis and be able to respond to changes. Although the City will experience some negative impacts attributed to the recession, he did not believe that the City would be hard hit as is being experienced by other organizations. It is the City's goal to absorb the impacts and to provide a high level of service to the community should the City Council adopt staff's recommended strategies.

Mayor Pro Tempore Sellers referred to the graphs relating to the General Fund Gain and Loss. It shows that the City had a loss in 1994 and 1995 and that the city is anticipating a loss this year. He noted that the City has had significant gains in past years. He indicated that when he first came onto

the City Council, he felt that the fund balance was relatively high. He said that the reason he was comfortable with the relatively high general fund balance was because he knew that this day would come. He was pleased that the City was prepared and that the City is fairly balanced. He stated that he would strongly oppose enhanced revenues streams (taxes) or increasing them because they are not needed and the fact that the burden on many households has increased of late. He recommended that the City stay the course in terms of economic incentives. He felt that the City has in place a sound policy of being prudent and looking at the long term benefits of economic incentives. He stated that he would hate for the City to veer from this in order to gain short term revenue and make concessions that should not be made or take actions that are away from policies. This would create long term problems and would be more significant than the short term gains. He stated his support of staff's recommendation to reduce departmental budgets by 5% as it appears to be reasonable and did not believe that more is required at this time. He summarized that there is to be no reductions in services and that with the proposed staff increases, city services would be enhanced despite the economic downturn. He supported staff's recommendation but would urge caution with the three items mentioned by staff.

Mayor Kennedy stated that having been on the Council and serving as Mayor when the City went through the economic downtown of 1993 and 1994 and having to lay off 30% of city staff, he understands how important it is to have a prudent and healthy reserve. He indicated that the City has been successful in doing so and the reason the City is in good shape. He stated that there are a lot of members in the community who have lost their jobs and understands the concerns. He stated that many of the public projects that the City will be undertaking over the next 2-4 years will pump over \$100 million of funding to our local economy. He indicated that these funds are projected because they are generated by property tax revenues due to the fact that the voters of Morgan Hill were wise in making the decision of approving the extension of the Redevelopment Agency. He wanted to assure the City's residents that the projects will continue despite the economic downturn and recession being experienced (e.g., new library, community center, indoor recreation facility, aquatic center, etc.). He felt that it was imperative for the City Council to aggressively pursue new business sources such as auto dealerships, Costco, and/or Fry's Electronic. He recommended that staff pick up its economic development activity efforts, focusing on assisting existing businesses that are struggling, reducing the delays in permit processing/approvals, and become a partner to businesses in order to assist in their survival in this economic downturn.

Council Member Chang concurred with Mayor Kennedy's comments relating to economic development. She recommended that the City review other revenues sources. She indicated that the City experienced 7 to 8 good years and that it may be that the City may have a few years of poor economy. She did not believe that the worse conditions have arrived. She was pleased to see the City Manager's recommendation to reduce the budget by 5%. However, she felt that there is a need for further cuts.

Council Member Carr noted that Mayor Kennedy recommends that the City become more aggressive in seeking out new business opportunities. He felt that the Chamber should be in attendance to hear this report and look at the business and economic climate of the community. It is his hope that the Chamber will become a better partner with the City as the City seeks out new businesses. He said that the Finance & Audit Committee will be bringing back its thoughts relating to focus being given to purchasing from local suppliers, keeping dollars locally. He suggested that the City look at the

different capital improvement projects and try to hire local contractors and provide local jobs. He would like to discuss investment opportunities and explore ways to improve the City's return on investments and explore ways to improve the transient occupancy taxes (TOT). He expressed concern about the jobs to be lost as a result of the downturn in the economy. He recommended a marketing campaign that allows some of the revenues to return in partnership with the Chamber of Commerce in order to save jobs and facilities. He stated that he had an opportunity to testify recently before State Assembly committees relating to jobs/economic development and the effects of the terrorist attacks on California. He was able to hear economists talk about the State's budget, noting that it was not good news. He recommended that the City's Legislative Committee take a look at what this means from the State and that the City advise the legislature that the City has prepared for these times. The City would hate to see the State take away through actions that they may be taken in the next session of the legislature.

Mayor Kennedy noted that the City of Gilroy has preferential contractual arrangements in their ordinance that gives local contractors preferential consideration. He recommended that the City review Gilroy's ordinance to see what is being done to provide local contractors preferential consideration.

Council Member Tate did not believe that the City should be in a position to have to beef up economic development because this activity should be ongoing. He indicated that the Chamber's Economic Development Committee will be discussing bringing back the possibility of an incubator to Morgan Hill, one that he has been a proponent for a long time. He did not disagree that the City needs to step up some of the activities at this time but felt that the City needs to adopt an economic development policy to make sure that it is ongoing.

Mayor Pro Tempore Sellers addressed the TOT and the Business to Business taxes. He felt that the loss of these fees are offset by the increase of new businesses coming into Morgan Hill and increased productions by existing businesses. He asked to what degree were these increases considered in the mix as well as the TOT by the addition of the Marriot Hotel?

Finance Director Dilles indicated that the TOT for Marriot was included in the mix but that he did not add anything extra for these rooms, noting that it opened in September and the other hotel will be opened in December. He agreed that these hotel rooms are different but that he did not have a good feel for whether they were transplanted persons or not. He acknowledged that new businesses are coming into town and add to the City's sales tax base.

Mayor Kennedy stated that the City is having a difficult time with auto dealerships because the City does not have clearly delineated locations for them to locate. He suggested that staff be directed to return with a report indicating where the city might want to locate auto dealerships in the community. He requested that the Finance and Audit Committee look at the TOT to make sure that the City is getting all of the TOT due. Also, the City to look at points of sale for businesses to make sure that the City is capturing all of the points of sale from new businesses.

Council Member Carr stated that he knows that there are areas that former council members indicated are not suitable for auto dealerships. He recommended that staff be given flexibility in looking at these areas because circumstances may have changed and the City may be interested in revisiting

these areas.

Actions: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council unanimously (5-0): 1. **Directed** Staff in All Operating Departments, Other Than Fire and Medical Services, to Reduce Expenditures to a Target Level 5% Below the Budget & to Minimize Adverse Effects on Services; 2) Of \$630,000 in Unanticipated Available General Fund Balance, **Approved** Using \$448,000 to Finance the 2001/02 Budget and Approve Adding the Remaining \$182,000 to the General Fund Reserve Designated for Economic Uncertainty; 3) **Discussed** the Need for Potential New Revenue Sources and Discuss Efforts to Attract New Businesses; and 4) staff to **return** with a report identifying appropriate locations for auto dealerships, looking at areas that previously have been precluded for this use.*

City Treasurer Roorda agreed with several of the comments expressed this evening. He said that the public should be assured that the City is in a position that makes it enviable in terms of financial flexibility. The City has a strong budget in its general fund and that the City is in a good position to weather the storm. He would like to believe that the steps to be taken by the City Council this evening would be enough to weather the full storm but that he was not sure that the City can depend on this. He felt that the City has some vulnerability in sales tax and that he did not believe that the City has seen the full impact. He said that there will be issues that the City may see at the state level, especially with the vulnerability of the in lieu vehicle fees. He recommended that communities, engaging the public as much as possible, put pressure early on to make sure that local governments continue to remain strong with finances. He agreed that the state has issues and that they need to resolve those issues, but not off the backs of local communities as has been seen in the past. He recommended that department directors be challenged for another 10% cut, considering what it would take to accomplish this and what would the impact be on local services.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 10:37 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 11:18 p.m.

City Attorney/Agency Counsel Leichter announced that the closed sessions have been continued to the conclusion of the meeting.

14. ACQUISITION OF FORMER ST. LOUISE HOSPITAL

Director of Community Development Bischoff presented the staff report. He informed the City Council that a letter was written by the attorney representing the owners of the cancer center. In review of the environmental document, he said that there was confusion on the owners' part as they felt that it was being stated that the cancer center had 8 parking spaces when they have approximately 45 parking spaces on their site. The document states that pursuant to the City's code, only 8 spaces are required. The owners wanted to make sure that the document recognizes that they have the 45

parking spaces, noting that this does not have an effect on the document because the hospital is over parked.

Council Member Chang stated that no matter what action the Council takes, the general direction is to try and acquire the former St. Louise Hospital site. She said that it appears that the city is prepared to negotiate with thought being given to eminent domain. Whatever the options are, she felt that the City needs to stress the financial situation. She stated that if additional funding to back a financial package is made and the city has a medical service program in place, she would support the eminent domain procedures and/or continue to negotiate property acquisition subject to these two conditions. If these conditions are not in place, she would not support the approval of the Negative Declaration this evening.

Mayor Pro Tempore Sellers felt that when an agency is in negotiations, you need to provide evidence of your willingness to proceed on a course should negotiations fail. It was his opinion that the action on item 14 demonstrates that the City is continuing in this path.

Action: *Mayor Pro Tempore Sellers made a motion, seconded by Mayor Kennedy, to approve the Negative Declaration.*

Council Member Carr noted that the staff report states that the hospital facility is to be occupied in Fall 2002. He asked if this was based on the Blue Ribbon Task Force's recommendation and asked whether this was a reasonable timeline?

City Manager Tewes said that the project description was one that staff developed based on its understanding of the schedule that the Morgan Hill Community Foundation was working to develop a leasing and operations plan. Therefore, the facility could be opened as early as Fall 2002. He stated that it was still possible for this to occur. He said that the nature of the services to be provided in this facility are to be determined in the plan.

Council Member Carr noted that the staff report states that the project would be required to contribute to traffic impact fees. He inquired who will be paying the traffic impact fees?

Mr. Bischoff stated that this document does not specify what agency would be required to pay the impact fee (e.g., City, Foundation or occupants). He clarified that traffic impacts would be mitigated based on the project.

Mayor Kennedy said that it was his understanding that part of the continued agreement with the Fry's Foundation would include receiving proposals from medical services providers. He stated that the Morgan Hill Community Health Foundation is assisting in the RFP process. He inquired as to when the RFP proposals are due?

City Manager Tewes indicated that the City Council considered a report from the Morgan Hill Community Health Foundation and that it was indicated that the Foundation was conducting an RFP process, seeking proposals from medical services providers for how they might use some or all of the St. Louise facility, should it be acquired. He indicated that the RFP proposals are due this month and that the Foundation anticipates that it will analyze, evaluate and make recommendation on the

proposals, putting together a comprehensive plan within 30 to 60 days following receipt of the proposals.

Mayor Kennedy felt that it was important to see how the RFP process plays out and that it was important that the City take a look at the proposals. He stated that he would support providing funding in order to recruit physicians as this is something that needs to be done irrespective of the facility(ies) location(s). He felt that this would be a wise use of funds in light of the loss of many of the community's medical service providers.

Council Members Carr and Tate felt that the motion on the table was different from the discussion taking place.

Action: *Council Member Carr made a motion, seconded by Council Member Tate, to call for the question.*

Council Member Carr stated that he would support the motion as staff has outlined that it is an appropriate mitigated negative declaration.

Mayor Kennedy stated that he would take a vote on the motion to call for the question, noting that it takes a two-thirds majority to call for the question. He said that he did not want the Council to rush through an action that it has not had the opportunity to fully deliberate.

Council Member Tate stated his support for the approval of the Negative Declaration as it was conducted properly.

City Manager Tewes stated that whether the facility is acquired through eminent domain or through negotiations, the project has to be reviewed pursuant to CEQA. Therefore, the negative declaration is about acquiring the facility and not about the means by which it is to be acquired.

Council Member Chang stated that CHW and the Daughters of Charity know how much money the City has offered to purchase the property from San Jose Christian College. It was her belief that the City would be dreaming to think that these groups do not know about the offered price and not ask for this same price. She felt that the City's options were to go through eminent domain or peaceful negotiations and that the City has to pay a price for it, noting that she wants to be prepared for it.

City Attorney Leichter informed the City Council that it has adopted in its rules of procedure the standard codes of Parliamentary Procedure by Alice Sturgis and that the Council does not follow Robert's Rules of Orders. Roberts Rules of Order for calling the question requires a majority vote. Sturgis requires a two-thirds vote. She said that common parliamentary practice requires a two-thirds vote to terminate debate.

Vote: *The motion to call for the question failed 3-2 vote with Mayor Kennedy and Council Member Chang voting no (2/3 vote required).*

Mayor Kennedy recommended that the Council hear the staff report on the Blue Ribbon Task Force recommendations at this time.

15. STATUS REPORT ON THE IMPLEMENTATION OF THE BLUE RIBBON TASK FORCE'S (BRTF) RECOMMENDATIONS

City Manager Tewes presented the staff report.

Council Member Carr referred to action 11 that requests that the Morgan Hill Community Health Foundation develop a strategy for attracting new primary care physicians and for extending the hours of access to urgent care services. He inquired if the City has heard back about extending the hours of access for urgent care services?

City Manager Tewes informed the City Council that it has not yet heard a report from the Foundation about this but that it is among the things that they are seeking proposals as part of the RFP process.

Mayor Kennedy inquired as to the Council's position relating to the motion on the floor (approval of the mitigated negative declaration).

Council Member Tate and Mayor Pro Tempore Sellers indicated that they would support the motion. Mayor Kennedy stated that he would also support the motion.

Council Member Chang stated that she did not want to oppose the motion and requested that the issue be discussed. Should Council Members feel that there is not a need for physician recruitment or for providing additional funding, then a vote can be taken on agenda item 14.

Council Member Tate stated that he would not support a motion for additional funding for acquisition of the hospital. Therefore, he would not support a motion that deals with acquisition of the hospital. He applauded Council Member Chang for trying to show the community that the Council wants to achieve the goals set. He said that he spoke with several healthcare foundation members and that the feedback given by these individuals was that without a location, you cannot recruit physicians. He noted that the City Council approved an allocation of \$250,000 as seed money that would be doubled as a fundraising effort. To use as a sole source revenue with no leverage is not in the spirit of what he approved the money to do which was to leverage more money.

Council Member Chang recommended that money be earmarked and that the Foundation return to the City Council with a program that would work. She felt that the program could include a facility. She noted that individuals located in Gilroy have recruited five physicians for their community through a program that guarantees \$120,000 salary. She stated that physicians are requesting a salary guarantee and assistance with finding an office. She felt that this program can easily be implemented in Morgan Hill.

Mayor Pro Tempore Sellers felt that discussion on acquisition is premature in terms of providing funding. He felt that funds should be designate in a larger sense to healthcare services and not to state that the funds are to be used specifically for physician recruitment. He noted that \$250,000 has been budgeted for healthcare services. He recommended that the \$250,000 be kept where it is because it is being used for the intended purpose. He did not see that taking action on agenda item 15 would satisfy Council Member Chang's concern but that it would not eliminate the possibility of using the funds for other uses should that need be there in the future. Should the Healthcare Foundation come

up with a viable plan to recruit physicians, it can be considered at that time.

Council Member Tate stated that it was his expectation that the \$250,000 allocated would be matched as it was his belief that it was the Council's expectation when funding was granted.

Council Member Carr stated that he supported the motion to fund \$250,000 to the Foundation to move forward. An additional \$250,000 was earmarked with the stipulation that they match these funds dollar for dollar. He felt that it was important to keep this requirement. He stated that he was troubled by the idea of earmarking these dollars. He said that the City Council put together a healthcare foundation because the Council wanted an autonomous body from the City Council to be able to explore healthcare options and ideas and be able to move forward with these ideas. He noted that the Foundation is in the middle of preparing a Healthcare Needs Assessment for the community. He did not believe that it was appropriate to dictate what the needs are before allowing the Foundation to complete their assessment.

Mayor Kennedy felt that a \$250,000 expenditure for physician recruitment would be a good use of funds in light of the medical shortage that exists. He stated that he could support this proposal but that it does not look like the council majority supports this.

Council Member Chang stated that if her items are not included, she would not be able to support eminent domain procedure. She said that she did not like walking into a situation without planning for optimum success. Should the City Council move forward in trying to acquire the property with the use of threat of eminent domain, it needs to be prepared for the optimum goal. She noted that the Fry's proposal is not guaranteeing a good return. If the city is not ready to back healthcare services with money, she did see a need to move forward with the process. She indicated that she would not support proceeding with eminent domain.

City Attorney Leichter cautioned the City Council that the resolution of necessity is not before it this evening. She said that a general discussion of intent to vote for eminent domain or any of the precursor actions that were discussed could jeopardize the City's defense in any eminent domain litigation.

Vote: *The motion to Approve the Negative Declaration carried 4-1 with Council Member Chang voting no.*

Actions: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-1 vote with Council Member Chang voting no, Approved an Increase in the Medical Service Department Budget to Cover the Cost of the Project Environmental Assessment.*

Council Member Carr stated that this is funding to cover an action that the City Council approved previously. The Council approved directing staff to proceed with the environmental work of which the negative declaration was a part of. The budget augmentation simply covers a previously approved action of the City Council.

Council Member Tate stated that he does not approve of spending any money in association with acquiring a hospital because he did not believe that the hospital should be acquired. However, for the reasons stated by Council Member states that the majority of the Council approved this action, he would support the appropriation even though he does not the use because he believes in paying city bills.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 11:53 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting to closed session at 12:22 a.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that: 1) the City Council authorized staff to initiate litigation regarding the Metcalf licensing (4-1 vote with Council/Agency Member Chang voting no); and 2) Authorized staff to challenge the State's redistricting (4-1 vote with Council Member/Agency Member Chang voting no).

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 12:24 a.m.

MINUTES RECORDED AND PREPARED BY:

Irma Torres, City Clerk/Agency Secretary